

Strasburger

ATTORNEYS AT LAW

ORIGINAL

233858

February 27, 2013

JOHN D. HEFFNER

Direct Phone 202-742-8807

Direct Fax 202-742-8897

Email john.heffner@strasburger.com

FILED

FEB 27 2013

SURFACE
TRANSPORTATION BOARD

VIA HAND DELIVERY

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 D Street, S.W.
Washington, D.C. 20423-0001



RE: FD 35721, Iowa Pacific Holdings, LLC, Permian Basin Railways, and San Luis & Rio Grande Railroad Corporate Family Transaction Exemption

Dear Ms. Brown:

On behalf of Iowa Pacific Holdings, LLC, Permian Basin Railways, and San Luis & Rio Grande Railroad ("Applicants"), I am enclosing for filing an original and ten copies of a verified notice of exemption under 49 CFR 1180.2(d)(3) for a corporate family transaction. Pursuant to this exemption, Applicants propose to transfer control of Massachusetts Coastal Railroad, LLC, from its 80% owned subsidiary Cape Rail, Inc., to its wholly owned subsidiary, the San Luis & Rio Grande Railroad.

I am enclosing a word copy of this filing on a computer disk as well as a filing fee check for \$1,400 payable to the Board. Please date-stamp and return one copy of this filing.

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4827443 1/SP/27818/0101/022713

Strasburger & Price, LLP

1700 K Street, N.W., Suite 640 | Washington, D.C. 20006-3817 | 202-742-8800 tel | 202-742-8800 fax | www.strasburger.com
Austin | Collin County | Dallas | Houston | San Antonio | New York, N.Y. | Washington, D.C. | Mexico City - Strasburger & Price, SC

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Ms. Cynthia T. Brown
February 27, 2013
Page 2

Sincerely yours,

A handwritten signature in black ink, appearing to read "John D. Heffner", with a long horizontal flourish extending to the right.

John D. Heffner

Enclosure

ORIGINAL

BEFORE THE
SURFACE TRANSPORTATION BOARD

233858

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FD 35721



IOWA PACIFIC HOLDINGS, LLC
PERMIAN BASIN RAILWAYS, AND
SAN LUIS & RIO GRANDE RAILROAD
- CORPORATE FAMILY TRANSACTION EXEMPTION -
MASSACHUSETTS COASTAL RAILROAD, LLC
VERIFIED NOTICE OF EXEMPTION
UNDER 49 CFR § 1180.2(d) (2)

FILED

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Submitted By:

John D. Heffner
Strasburger & Price, LLP
1700 K Street, N.W.
Suite 640
Washington, D.C. 20006
(202) 742-8607

Counsel for Petitioner

Dated: February 27, 2013

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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FD 35721

**IOWA PACIFIC HOLDINGS, LLC
PERMIAN BASIN RAILWAYS, AND
SAN LUIS & RIO GRANDE RAILROAD
- CORPORATE FAMILY TRANSACTION EXEMPTION -
MASSACHUSETTS COASTAL RAILROAD, LLC
VERIFIED NOTICE OF EXEMPTION
UNDER 49 CFR § 1180.2(d) (2)**

Come now Iowa Pacific Holdings, LLC ("IPH") and its wholly owned subsidiaries Permian Basin Railways ("PBR") and the San Luis & Rio Grande Railway ("SLRG"), and Massachusetts Coastal Railroad, LLC ("Mass Coastal") and state as follows:

1. Pursuant to the provisions of Section 1180 of the Board's Railroad Consolidation Rules (49 C.F.R. § 1180), Applicants hereby give notice of a transaction which qualifies for exemption under § 1180.2(d) (3) of those rules.
2. As relevant here, IPH is a limited liability company and a noncarrier

established for the purpose of owning and operating common carrier short line and noncommon carrier excursion passenger railroads.

3. PBR is a wholly-owned corporate subsidiary of IPH established for the purpose of owning common carrier short line railroads. PBR directly controls the following seven class III common carrier short line railroads: Austin & Northwestern Railroad operating as the Texas-New Mexico Railroad, Chicago Terminal Railroad, Mount Hood Railroad, Rusk, Palestine & Pacific Railroad, LLC, San Luis & Rio Grande Railroad, Santa Cruz and Monterey Bay Railway Company, and the West Texas & Lubbock Railway. Additionally PBR controls through San Luis & Rio Grande Railroad ("SLRG") an eighth class III common carrier short line railroad, the Saratoga & North Creek Railway, LLC. Recently in the Fall of 2012, PBR acquired indirect control of a ninth class III common carrier short line railroad, Mass Coastal, when it acquired 80% control of Cape Rail, Inc. ("Cape Rail"), a noncommon railroad holding company.¹

4. Presently, Cape Rail owns two railroad subsidiaries, Mass Coastal and

¹ Authorized in *Iowa Pacific Holdings, LLC and Permian Basin Railways—Control Exemption—Cape Rail, Inc and Massachusetts Coastal Railroad, LLC*, FD 35684, STB served October 26, 2012.

Cape Cod Central, a noncommon carrier intrastate excursion passenger railroad outside the Board's jurisdiction.

5. Applicants propose to reorganize their corporate structure in order to claim certain tax and commercial benefits. Under this reorganization 100% control of Mass Coastal will be transferred from its current direct owner, Cape Rail, to SLRG. Thus IPH through PBR will control 100% of Mass Coastal through SLRG rather than through Cape Rail.² Cape Rail will continue to control Cape Cod Central and will no longer be subject to any Board jurisdiction because its only remaining subsidiary is an intrastate excursion passenger railroad outside Board jurisdiction.

6. Under §1180.2(d) (3) of the Board's consolidation rules, certain transactions are automatically exempt from the prior approval requirements for common control. Specifically, §1180.2(d) (3) exempts corporate family transactions where the transaction will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

² As a result of this transaction SLRG will now control two common carrier railroads, Saratoga & North Creek Railway and Mass Coastal.

7. The Board has on numerous occasions exempted transactions such as this one involving the transfer of control of a subsidiary from one corporate entity to another affiliated corporate entity under 49 CFR §1180.2(d)(3), *See, e.g., Four Rivers Transportation, Inc., Paducah & Louisville Railway, Inc., and Evansville Western Railway, Inc. – Corporate Family Transaction Exemption*, FD 35043, STB served Aug. 8, 2007; *Red River Valley & Western Railroad Company and Rutland Line, Inc.—Corporate Family Transaction Exemption*, FD 35254, STB served July 2, 2009; and *Tennessee Southern Railroad Company, Patriot Rail, LLC, Patriot Rail Holdings LLC, and Patriot Rail Corp.—Corporate Family Transaction Exemption—Sacramento Valley Railroad, LLC and Piedmont & Northern Railway, LLC*, FD 35449, STB served Dec. 8, 2010.

8. In order to claim the §1180.2(d)(3) exemption, §1180.4(g) requires the filing of a verified notice of exemption furnishing the information requested in §§1180.6(a)(1)(i)–(iii), 1180.6(a)(5)–(6), and 1180.6(a)(7)(ii) of those rules. That information is provided as follows:

Summary of Proposed Transaction: 49 CFR §1180.6(a)(1)(i)

As described above, IPH and PBR will transfer its 100% ownership of Mass Coastal from its present owner Cape Rail to its new owner, SLRG.

Applicant's name, address, and telephone number:

Iowa Pacific Holdings, LLP
118 South Clinton Street,
Suite 400
Chicago, IL 60661
(312) 466-0900

Cape Rail, Inc.
118 South Clinton Street,
Suite 400
Chicago, IL 60661
(312) 466-0900

Legal counsel to whom questions should be addressed:

John D. Heffner
Strasburger & Price, LLP
1700 K Street, N.W.
Suite 640
Washington, D.C. 20006
(202) 742-8607

Schedule for consummation: **49 CFR §1180.6(a) (1) (ii)**

The parties intend to consummate the proposed transaction at least 30 days from the date of this notice, on or about April 1, 2013.

Purpose to be accomplished by the transaction: 49 CFR §1180.6(a) (1) (iii)

The purpose of this transaction is to transfer direct control over Mass Coastal from Cape Rail to SLRG for various tax and commercial reasons. This transfer will also allow Cape Rail to concentrate its energies on the one intrastate excursion passenger railroad, Cape Cod Central, it will continue to own.

State(s) in which the property of each carrier is situated: 49 CFR §1180.6(a) (5)

Austin & Northwestern Railroad operating as the Texas-New Mexico

Railroad: Texas and New Mexico

Chicago Terminal Railroad: Illinois

Mount Hood Railroad: Oregon

Rusk, Palestine & Pacific Railroad. Texas

San Luis & Rio Grande Railroad: Colorado

Santa Cruz and Monterey Bay Railway: California

West Texas & Lubbock Railway: Texas

Saratoga & North Creek Railway: New York

Mass Coastal: Massachusetts

Map: 49 CFR §1180.6(a) (6)

Attached hereto as Exhibit A.

Copy of Agreement: 49 CFR §1180.6(a) (7) (ii)

N.A. There is no agreement covering the instant transaction.

Environmental and historical considerations:

This corporate family transaction exemption proceeding is exempt from environmental review under 49 CFR §1105.6(c) (2) (i) because the proposed action will not cause any operating changes that exceed the thresholds established in 49 CFR §1105.7(e) (4) or (5). In addition, this proceeding is exempt from historic review under 49 CFR §1105.8(b)(1) because there are no plans to dispose of or alter properties subject to Board jurisdiction that are at least 50 years old.

Accordingly, no historic report is required.

Labor Protection to be Imposed

No labor protection applies on transactions involving only class III railroads.

See, 49 U.S.C. §11326(c).

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'John D. Heffner', with a stylized flourish at the end.

John D. Heffner
Strasburger & Price, LLP
1700 K Street, N.W.
Suite 640
Washington, D.C. 20006
(202) 742-8607

Counsel for Applicants

Dated: February 27, 2013

VERIFICATION


STATE OF Illinois)

)

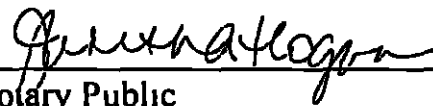
SS

CITY OF Chicago)

Edwin E. Ellis, being duly sworn according to law, hereby deposes and states that (s)he is holds the position of President with applicant/petitioner (respondent), is authorized to make this Verification, has read the foregoing document, and knows the facts asserted therein are true and accurate as stated, to the best of (her) his knowledge, information, and belief.



Subscribed to and sworn to before me, a Notary Public, in and for the City of Chicago in the State of Illinois, this 21st day of February, 2013.



Notary Public

My commission expires: Jan 13, 2017

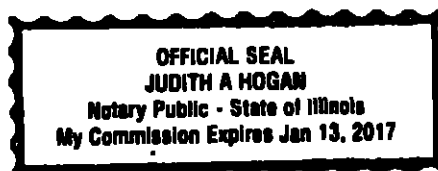


EXHIBIT A

